



IT IS SO ORDERED.
Signed January 21, 2015

A handwritten signature in cursive script, reading "Arthur S. Weissbrodt".

Arthur S. Weissbrodt
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re]	Case No. 14-50146-ASW
CHOU TUNG WANG,]	Chapter 11
]	
Debtor.]	
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CHINA EXPORT FINANCE LIMITED,]	Adv. Pro. No. 14-05078-ASW
]	
Plaintiff,]	
]	
v.]	
SHOU TUNG WANG,]	Hearing Date: Jan 22, 2015
]	Hearing Time: 2:15 p.m.
]	
Defendant.]	
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MEMORANDUM DECISION RE: MOTION TO ALTER OR AMEND

Before the Court is the motion of Defendant Shou Tung Wang ("Wang"), who is represented by attorney Steven Sibley, to alter or amend this Court's Tentative Decision issued on November 13, 2014, and made final at a hearing on that same date ("Decision"). The motion is opposed by Plaintiff China Export Finance Limited ("CEFL"), which is represented by attorney David Cook.

In the Decision, the Court stated its reasons for denying Wang's motion for summary judgment seeking to avoid CEFL's judicial

1 lien as impairing Wang's homestead. The Court found that there was
2 a genuine issue of material fact as to the validity of the seven
3 deeds of trust recorded after the effective date of CEFL's judgment
4 lien. In the course of analyzing the motion, the Court stated:
5 "CEFL contends that these deeds of trust were fraudulently granted
6 in an attempt to hinder and delay CEFL's ability to collect its
7 judgment. If that is proven, and those liens are invalidated,
8 CEFL's judicial lien would not be subject to avoidance under
9 § 522(f) because it would no longer impair Wang's homestead
10 exemption."

11 Wang asks the Court to alter or delete the last quoted
12 sentence. Wang contends that the cited language conflicts with
13 Wang's uncontested computation in his lien avoidance motion that
14 even if all the individual deeds of trust were excluded from the
15 avoidance calculation, CEFL's judgment lien is secured in the
16 amount of \$30,994.

17 The Court agrees that the Decision should be amended; the
18 phrasing of the sentence does not correctly reflect the Court's
19 intention. The sentence was not intended to be a finding by the
20 Court, but a statement of CEFL's position.

21 Under Fed. R. Civ. P. 60(b)(1), the Court may correct a
22 mistake arising from oversight or omission whenever one is found in
23 a judgment, order, or other part of the record, and may do so on
24 motion or sua sponte. Because the Court's intent was not clearly
25 stated in the Decision, the Court will issue an order under Fed. R.
26 Civ. P. 60(b)(1) (applicable via Fed. R. Bankr. P. 9024) amending
27 the Decision to correct the sentence to read: "If that is proven,
28 and those liens are invalidated, *CEFL contends that its judicial*

1 lien would not be subject to avoidance under § 522(f) because it
2 would no longer impair Wang's homestead exemption."

3 CEFL raises a number of arguments in its opposition. CEFL
4 contends that collateral estoppel bars reconsideration and that the
5 motion does not meet the standard for a motion for reconsideration.
6 CEFL also disputes Wang's position that CEFL's lien may still be
7 avoided if the disputed liens are avoided. None of these arguments
8 is applicable, given that the phrasing of the Decision was an
9 oversight by the Court and does not represent the Court's
10 intention. It would be manifest error of fact and law to leave the
11 erroneous language in the Court's Decision. CEFL's objections are
12 overruled.

13 To be clear, the Court is not making a finding as to the
14 avoidability of CEFL's lien. If and when the validity of the
15 disputed liens is litigated, the Court will consider the proper
16 calculation to determine whether CEFL's lien impairs Wang's
17 homestead exemption.

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19 *** END OF MEMORANDUM DECISION ***
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Court Service List

Parties to be served electronically.